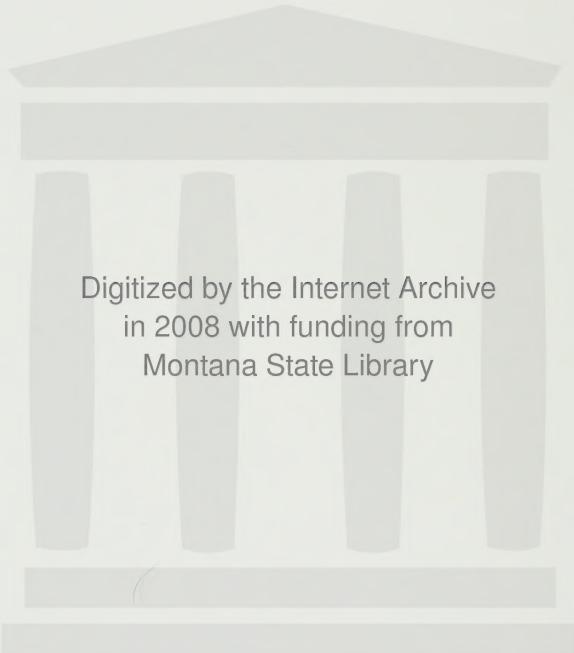


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THE INTERIM

JULY 1998

HELENA, MONTANA

VOL. XI NO. 14

REVENUE OVERSIGHT COMMITTEE

Next Meeting in July...The Revenue Oversight Committee is tentatively scheduled to meet Thursday, July 23 and Friday, July 24 in Room 104 of the State Capitol. The Committee will discuss options to revise the taxation of electric and natural gas utilities. The Committee will look primarily at the property taxation of all class nine centrally assessed property. Class nine property includes telecommunications and pipelines. The Committee will also review the interim activities of the Revenue Estimating Subcommittee.

Please contact Jeff Martin at <jmartin@mt.gov> or by calling (406) 444-3064 for more information.

LEGISLATIVE AUDIT COMMITTEE

Committee Meets in June...The Legislative Audit Committee met on June 23 in Room 108 of the Capitol. The following reports were presented.

PERFORMANCE AUDITS:

Contract Administration - State Compensation Insurance Fund, Department of Administration (98P-04)

Apprenticeship and Training Program, Department of Labor and Industry (98P-06)

Child Care Certification & Monitoring, Department of Public Health and Human Services (97SP-65)

Foster Care Facility Licensing and Other Related Issues, Department of Public Health and Human Services (95SP-61)

PLEASE RETURN

EDP AUDITS:

Combined Oil and Gas System (COGS) Application Controls, Department of Revenue (98DP-07)

Department of Revenue Application Controls Follow-up (98DP-08)

CONTRACT AUDIT:

Montana Medical-Legal Panel (98C-01)

Because the meeting took place after the publication deadline, a more complete summary of the meeting will be found in the August edition of *THE INTERIM*.

COMMITTEE ON PUBLIC EMPLOYEES' RETIREMENT SYSTEMS

Committee Makes Preliminary Recommendations...As reported in the last issue of *THE INTERIM*, the Committee on Public Employees' Retirement Systems (CPERS) developed preliminary recommendations to modify the current Public Employees' Retirement Systems (PERS), as required by House Bill No. 90. These preliminary recommendations would establish a Modified Public Employees' Retirement Systems (MPERS) consisting of a defined benefit (DB) plan (the current PERS with some modifications) and a defined contribution (DC) plan.

The defined contribution plan would be offered as a choice to current PERS members with less than 5 years of service (nonvested) and to new members. Nonvested PERS members and new employees may choose to participate in the DC plan or remain in the DB plan with the modifications described in the table below. Choices must be made within 6 months of the effective date of the MPERS or of the employee's hire date. Vested members remain in the current PERS without modification.

The table below summarizes the features of the proposed MPERS.

Preliminary Recommendations for a Modified Public Employees' Retirement System

Issues & Features	Defined Benefit	Defined Contribution
Portability	No change. Employee contributions plus interest may be withdrawn or rolled over to another qualified plan.	Account balances may be rolled over to another qualified plan. Federal or plan restrictions may apply.

Issues & Features	Defined Benefit	Defined Contribution
Contribution amounts	No change. Employee and employer contribution rate of 6.9%.	Employee contribution rate of 6.9%. Employer contribution rate of 6.9% with part going to pay for DB plan. unfunded liabilities and new costs created in DB plan when DC choice is offered. Remainder deposited in member's DC account.
Investment control	No change.	Members may direct investment of DC account within range of investment choices offered by plan.
Vesting	No change. 5 years.	Immediate.
Retirement eligibility	No change. 30 years service regardless of age, 5 years service and age 60, or age 65.	Members may begin to withdraw benefits at time of separation from public service but with penalty if prior to age 59½; payments required after age 70½.
Payout options	No change. Benefits are paid monthly.	May purchase annuity from DB plan; other payout options will be offered but are not yet specified.
Health plan benefits	Nonvested & new plan members may allocate 2% of their contributions to VEBA account to pay postretirement premiums for coverage in employer's group plan. Approval tentative & subject to change.	No feature specifically for health benefits. Retired members may remain in employer's group plan if they pay full premium.

Issues & Features	Defined Benefit	Defined Contribution
Unused sick leave payout at retirement	Nonvested and new members may designate sick leave payout to be deposited in VEBA account for paying postretirement health insurance premiums in employer's group plan.	No change. Current sick leave payout provisions would apply.
Disability benefits	No change.	All members required to participate in pooled disability insurance plan costing about 0.6% of plan contributions. Amount available for investment would be reduced 0.6%.
Death benefits	No change.	Member's account balance paid out to beneficiary and is taxable.
Loans	No change. No loans.	After 5 years of covered employment, members may take loan of up to ½ of their account balance but no more than \$50,000. Must be paid back within 5 years with interest and by automatic payroll deduction.
Part-time employees	No change. Membership determined based on hours worked.	Same as DB plan.
Plan costs	No additional contributions are assumed. VEBA options will reduce amount paid as monthly retirement benefits.	No additional contributions are assumed.

Administrative Costs and Effective Dates...New administrative costs will be incurred to pay for administration of two plans, administration of the VEBA options for health insurance premiums, DC plan administrative fees, and educational programs. CPERS has not yet addressed how these costs would be covered.

CPERS voted to delay the effective date for these changes but has not yet set one. This would allow for necessary administrative changes and time to address IRS qualification issues and legal concerns.

Committee to Hold Video Conference and Meeting...CPERS will conduct a statewide two-way video conference on the MPERS from 6:30 p.m. to 9 p.m. on Thursday, July 9. The video conference will include an overview and explanation of CPERS's preliminary recommendations for MPERS and public comment on those recommendations.

Video conference locations are as follows:

Baker: Fallon Medical Center

Billings: MSU-Billings, Special Education Bldg., Room 162

Bozeman: MSU, EPS Bldg., Room 126

Butte: Montana Tech, Room 231, ELCB

Colstrip: Colstrip Medical Center

Culbertson: Roosevelt Memorial Hospital

Dillon: WMC, Library, Room LCL 23

Glasgow: Deaconess Hospital

Glendive: Glendive Medical Center

Great Falls: College of Technology, Room 147

Havre: MSU-Northern, Hagener Science Center, Room 202

Helena: DPHHS Auditorium

Helena: (CPERS site) College of Technology, Room 209

Kalispell: FVCC, Learning Resource Center, Room 120

Miles City: Community Mental Health Center

Missoula: UM, Gallagher Bldg., Room 106

Sidney: Community Memorial Hospital

A regular CPERS meeting will be held in Room 104 of the State Capitol on Friday July 10. The main agenda items will be consultant presentations on best principles and practices related to governance, administration, and education issues.

For more information, contact Sheri Heffelfinger at 444-3064 or at <sheffelfinger@mt.gov>, or access the CPERS Internet site at <http://www.mt.gov/leg/branch/pers_main.htm>.

INTERIM PROPERTY TAX COMMITTEE

Committee Meets in Northcentral Montana...The Interim Property Tax Committee continued its quest to "reform, revise, or replace Montana's property tax system" by continuing to examine alternatives to the current system. The Committee conducted its 15th and 16th public hearings on the issue of property taxation in Montana. June 18 and 19 meetings in Havre and Great Falls again reinforced the difficulty of the Committee's task: identifying statewide solutions to regional, local, and even neighborhood problems that vary widely in nature, scope, and severity and that, in all likelihood, will change in the future much like they have in the past. The Committee continues to find, from among those who testify, that:

- homeowners seek relief from property taxes, including more predictability and stability;
- education is philosophically supported but should be more strongly funded from sources other than property taxes, including a statewide, general retail sales tax;
- local officials consider themselves prudent, responsible, and accountable in dealing with property taxes and local services (including schools); and
- citizens generally support their locally elected officials as prudent, responsible, and accountable.

Committee Identifies Three Alternatives...As a result its deliberations, the Committee is focusing on three principal alternatives:

1. a 4% statewide, general retail tax that would be broad-based, revenue neutral, and provide approximately \$500 million annually to replace property taxes that currently are allocated to fund public education. This option will include a constitutional amendment that will preclude future increases in property taxes once they are lowered as a result of sales tax revenue replacement.
2. a combination of a reduction in the statutory taxable rate for Class 4 property (currently 3.816%) plus a partial homestead exemption plus a "cut" in the mandatory 95-statewide mills for schools plus a "cut" in the required and maximum-allowable mills for local government services plus "capping" the revenue collectible by local governments; and
3. developing the framework for applying the acquisition valuation method for appraising Class 4 property for property tax purposes. This option will include a constitutional amendment authorizing the statutory adoption of the acquisition value method of valuation.

Because these options will require significant work by the Committee, two subcommittees have been formed to prepare working drafts (legislation), one of which will focus on the sales tax alternative and the other which will focus on the rate/cut/cap alternative. The sales tax subcommittee has tentatively scheduled a work

session for July 22 in Billings (no specific site as of this writing).

Other Options Being Considered...At this time, two other options might also make the menu of alternatives: a package containing revisions to the "circuit breaker" provisions for low-income homeowners, the "residential property tax credit for the elderly", and the reverse annuity mortgage; and some form of local option tax(es).

To Finish Work in September...With only 3 months and one more work session scheduled this interim, the Committee's work will soon come to some type of closure. Remaining meetings of the full Committee are scheduled for: Columbus, August 6 (at the Little Metra); Billings, August 7 (Billings Schools--Lincoln Center Board Room); and Helena, September 14 (tentative). The Committee encourages your participation and solicits and welcomes any input, ideas, solutions, and suggestions.

CORRECTIONAL STANDARDS AND OVERSIGHT COMMITTEE

Committee Meets in June...The Correctional Standards and Oversight Committee met on Friday, June 19 and heard a Department of Corrections update and a presentation on the current Executive Planning Process proposals. The Committee agreed to support efforts by the Blackfeet, Fort Peck, and Northern Cheyenne Tribes to apply for federal grant funds for juvenile detention facilities. The following subcommittee updates were also heard by the Committee.

Jail Standards Subcommittee...Staff presented a report, "Correctional Standards and Limitations on Confinement", in fulfillment of the requirements for House Joint Resolution No. 19. It includes an analysis of the constitutional constraints on confinement in correctional facilities, a description of Montana laws and history regarding jail standards, and specific information for every type of correctional facility in the state, both adult and juvenile. The Committee also received draft legislation for mandatory jail standards that is currently being circulated and will be presented for adoption in August.

The date of the next Jail Standards Subcommittee meeting will be announced at a later time. Please contact Susan Byorth Fox at the Legislative Services Division for further information.

Juvenile Issues Subcommittee...The Committee received staff updates on the May 21 meeting of the Juvenile Issues Subcommittee, including the juvenile placement budget and a "Report from the Advisory Committee on Juvenile Detention Standards and Administrative Rules". The report has been transmitted to the Department of Corrections who will proceed with the administrative rulemaking process.

The next Juvenile Issues Subcommittee meeting will be Thursday July 9 in Helena and will be a working session to draft legislation in response to the court ruling on the Extended Jurisdiction Prosecution Act and on Youth Court recordkeeping provisions.

Private Prisons and Programs Subcommittee...Representative McGee reported on the session that he, Senator Harp, and Senator Mohl attended during the Judges Conference in May. The discussion revealed that there are significant communications problems in the criminal justice world and there is a greater need for dialogue. Legislators will also be attending a session of the Judges Conference this fall. The Committee also received copies of a report entitled, "Policies on Good Time and the Effects on Sentencing Practices: History and Survey Results."

The Private Prisons and Programs Subcommittee and its Ad Hoc Committee on Sentencing will meet Monday, July 27 in Helena for a work session.

Agendas Available...Specific times and agendas will be available for the Subcommittee meetings approximately 1 week prior to each meeting. They are expected to be full day sessions.

Full Committee to Meet in August...The next meeting of the Corrections Standards and Oversight Committee will be August 20 and 21. The Committee will convene at 7 a.m. on August 20 and hopes to adjourn by early afternoon on the 21st. The agenda for this meeting will include a revised population projection and budget, incorporating FY 98 experience, for the Department of Corrections; the Department's revised proposals that will be presented to the 1999 Legislature; and the completion of the Subcommittee recommendations.

For copies of the above mentioned reports or for information on the Subcommittees, the upcoming meetings, or about the Committee in general, please contact Susan Byorth Fox at 444-3064 or by e-mail at <sfox@mt.gov>.

LEGISLATIVE SERVICES DIVISION

Reports Available...The following reports are currently available from the Legislative Services Division. To obtain a copy, please contact the LSD Library at 444-3064 or by e-mail at <efurbush@mt.gov>.

"Corrections Standards and Limitations on Confinement", Valencia Lane and Susan Byorth Fox

"Computers for Legislators: Pilot Project Proposal", Robert B. Person

"Policies on Good Time and the Effects on Sentencing Practices: History and Survey Results", Susan Byorth Fox

"Taxing Issues in the Deregulated Telecommunications Industry", Gordon Higgins

LEGISLATIVE FINANCE COMMITTEE

LFC Meets in June...The Legislative Finance Committee (LFC) met in Helena on June 16 and 17 to hear a number of reports and discuss several issues. Key issues discussed are summarized below.

Mental Health Managed Care Update...The LFC heard testimony from the Montana Department of Public Health and Human Services (DPHHS) and Merit Behavioral Care, Inc. (Merit), responding to implementation status questions posed in a Legislative Fiscal Division (LFD) staff memo and about the mental health managed care program in general.

DPHHS reported that the Health Care Financing Administration (HCFA) returned to Montana in April 1998 for a follow-up visit to its site review in fall 1997. The purpose of the visit was to review the state's management of the managed care contract. A draft report is expected to become available at the end of June 1998.

In April 1998, DPHHS contracted for technical assistance with a management consulting firm with expertise in the managed care industry. One of the major outcomes intended from this consulting contract was the resolution of lingering implementation problems of the Mental Health Access Plan. The consulting firm facilitated the development of an "Operational Plan" (with specific deliverables, deadlines, and financial penalties) as a tool to ensure this outcome is achieved. While the Operational Plan is similar to the DPHHS' earlier Program Improvement Plan document, there are some significant differences:

1. The Operational Plan includes financial penalties.
2. DPHHS has developed acceptance criteria to ensure that the private contractor and the state are clear on what constitutes an acceptable, completed task.
3. DPHHS has formed specialized teams to monitor Operational Plan compliance.

Merit reported that the task of converting the information management system from CMG to Merit, currently scheduled for completion July 1, 1998, is on target. Unresolved claims from April 1, 1997, through June 30, 1998, remaining after system conversion are scheduled for resolution by the fifteenth working day of September, according to the new Operational Plan.

Finally, DPHHS reported that the required audited financial statement reflecting the program's first year of operation is due June 30, 1998. A copy will be provided to the LFD when it becomes available.

If you would like to receive a copy of the audited financial statements, the HCFA follow-up report, or the Operational Plan, please call the Legislative Fiscal Division at 444-2986 or send an e-mail message to Pam Joehler, Senior Fiscal Analyst at <pjoehler@mt.gov>.

Medicaid Estimates...The DPHHS and the LFD each presented separate forecasts of Medicaid spending for the 1999 and 2001 biennia to the LFC. DPHHS officials gave an overview of the history of the Medicaid program, including how selected

program changes from 1982 to 1988 have affected spending on Medicaid services. For the 1999 biennium, the DPHHS expects total Medicaid spending of \$394.8 million in fiscal 1998 and \$406.8 million in fiscal 1999. For the 2001 biennium, the DPHHS current projections show total Medicaid spending of \$432.2 million in fiscal 2000 and \$451.2 million in fiscal 2001.

Jim Turner of the LFD presented the LFD forecasts of Medicaid spending. The latest LFD forecasts are for total Medicaid spending of \$388.7 million in fiscal 1998 and \$408.7 million in fiscal 1999, which differ from DPHHS forecasts by -1.6% in fiscal 1998 and by 0.5% in fiscal 1999. The LFD forecasts for fiscal 2000 and fiscal 2001 are \$433.1 million and \$450.8 million, which differ from the DPHHS forecasts by 0.2% and -0.1%. Mr. Turner's explanation of the LFD forecast model also included a discussion of the potential pitfalls of long-range forecasting.

Appropriations Control...LFD staff presented a report on three issues of appropriations control that arose this interim. The LFC reviewed the increased use of administrative appropriations (AAS) in this interim, which are a means by which the executive allocates authority to spend funds without an appropriation by the Legislature. Administrative appropriations are initiated by the Office of Budget and Program Planning. The issue was raised as to whether increased use of AAS in this interim to provide authority for agencies to spend funds to establish or maintain programs never reviewed by the Legislature was an inappropriate usurpation of legislative appropriations authority and ability to provide program oversight and review.

The LFC also received an update on two other issues of appropriations control this interim:

1. the provision of general fund appropriations authority to the Supreme Court to receive a fund transfer from the Montana Science and Technology Alliance when no authority was provided by the Legislature; and
2. the issue of whether excess district court fees for grants to district courts were statutorily appropriated.

The general fund appropriation will be reversed, and all parties now agree that excess district court fees are not statutorily appropriated. The Supreme Court has indicated it will seek authority from the next Legislature to spend these funds in fiscal 1999 and will seek a statutory appropriation for future biennia.

Supplemental Appropriations...The LFC reviewed five proposed fiscal 1998 supplemental requests (transfers of fiscal 1999 appropriation authority to fiscal 1998):

1. up to \$25,000 general fund (in addition to the \$15,000 approved earlier in the year) to the Commissioner of Political Practices for legal fees;
2. up to \$508,000 general fund to the Department of Corrections for increased pre-release and women's corrections costs;
3. \$131,138 general fund to the Montana State Library to correct a HB 2 allocation;
4. \$1,081,745 general fund to the Department of Natural Resources and Conservation for fiscal 1998 fire costs; and

5. \$1,000 in state special revenue to the Montana Chiropractic Legal Panel for increased hearings costs.

The LFC reported that all supplementals appeared to meet statutory criteria. The LFC expressed its concern that neither the Commissioner of Political Practices nor the Montana Chiropractic Legal Panel would be able to reduce fiscal 1999 expenditures to stay within that year's appropriation.

Operating Plan Changes: Equipment...The LFC reviewed the reallocation of equipment expenses of between \$1,000 and \$5,000, which are currently classified as equipment expenditures, to operating expenses. The move is in response to a management memo from the Department of Administration mandating the change. The Department stated that the move was made to conform to current federal accounting standards and to eliminate the need for agencies to account for depreciation of these expenditures on the state system, which the federal standards do not require. The LFC expressed its concern that the move would result in less budgeting scrutiny of these expenses (including computers and software). Equipment is, for budgeting purposes, zero-based, meaning that all proposed expenditures, regardless of level of expenditure in the base year, must be justified. Operating expenses are, with few exceptions, incrementally based for budgeting purposes, meaning that the Legislature generally deals with changes to the previous year's expenditures. The LFC instructed the Legislative Fiscal Analyst to include in the budget analysis for the 1999 legislative session a summary of the impact of this change on the budget base.

Corrections Issues...Legislative staff presented a report on inmate cost per day and on the potential impact on the prison ranch operations of sending prisoners to regional and out-of-state prisons. Inmate cost per day is determined by dividing the costs relating to the care and custody of inmates by the total number of inmate days provided during the period in which the costs were incurred. More secure facilities require additional and more expensive security and generally have added limitations on the number of inmates that share a cell or common areas. There is also a higher guard-to-inmate ratio than in medium and low security facilities. Requirements for special programs and training also impact costs, such as substance abuse counseling.

A reduction in the number of inmates classified as low risk at the Montana State Prison (MSP) is occurring and is expected to continue as a result of increased numbers of prisoners being transferred to pre-release centers and to regional and out-of-state prisons. The prison ranch requires up to 80 inmates during peak months for timber, dairy, and cattle operations. Since the ranch is an enterprise operation (no state dollars in support of its operation), the lack of sufficient inmate labor qualified (i.e., low risk) for the operations may negatively impact the ability of the ranch to operate at a profit. The following questions were posed to and discussed by the LFC:

1. Can the MSP ranch continue to be a viable operation if a sufficient number of qualified inmates are not available to work?
2. What is the role of the prison ranch in the overall mission of MSP if is not employing a significant number of inmates to learn the work habits and

discipline necessary for transition back into society upon completion of their sentences?

3. If only low risk inmates are transferred to other prisons, will that leave MSP with only high risk inmates whose numbers will exceed the capacity of the MSP facility?

The LFC expressed concern about these issues and a need to continue to assess their impact.

MT PRRIME Budget Module...The LFC heard a report on the status of all modules of the MT PRRIME project, with particular emphasis on the budget module. The budget module, originally due to be placed in production on May 1, has a revised delivery date of August 1 for the core module, with remaining components to be delivered on a prioritized basis into October 1998. The plan for completion is aggressive but would provide for delivery of the full budget system with no delays in budget preparation and analysis for the 1999 legislative session. The LFC admonished all parties engaged in the system development to ensure that a quality budget system is delivered within the revised dates and that there are no work stoppages by state personnel in the biennial budget development process.

TRANSPORTATION FUNDING STUDY COMMITTEE

Transportation Funding Study Committee Meets in June...The Transportation Funding Study Committee met on Monday June 22 in the State Capitol. This was the last planned meeting for the Committee. The Committee has an August 1, 1998, deadline to conclude its work and report its findings and conclusions to the Legislative Finance Committee and the 56th Legislature. During this meeting, the Committee formulated its recommendations for stabilizing the Highways State Special Revenue Account (HSRA).

Recommendations From the Committee...The Committee reached agreement to recommend four actions that will bring the revenues and expenditures of the HSRA \$5.2 million closer to being in balance. The Committee's recommendations include:

1. shifting Department of Justice activities which are not directly related to highway safety from the HSRA to the general fund;
2. reducing the tax collection fee paid to motor fuel distributors from 1.0% to 0.5%;
3. allowing interest earned on the HSRA fund balance to be credited to the HSRA instead of the general fund; and
4. exempting the Department of Transportation (MDT) from the requirement of selling surplus property through the State Surplus Program of the Department of Administration.

Support for Initiatives Initiated by MDT...The Committee also agreed to endorse activities MDT will initiate in specific areas of its program that will either increase revenues or decrease expenditures of the HSRA. Specifically, the Committee agreed to endorse:

1. proposed legislation from MDT that targets the reduction of fuel tax evasion activities;
2. MDT's efforts to sell right-of-way properties that are no longer planned to be utilized by MDT;
3. an executive planning process proposal for MDT to reduce their support of the Natural Recourse Information System of the Montana State Library; and
4. charge local governments the full administrative overhead fee allowed in their contracts for providing up-front construction engineering services for local transportation projects.

Reduction of Expenditures...The Committee agreed to recommend that all user agencies of HSRA funds reduce funding by an amount proportional to their current usage of HSRA that would meet a goal to reduce the expenditures and revenue reductions of the HSRA by an additional \$3.0 million.

Staff to Prepare Committee Report...With the Committee actions completed, the Legislative Fiscal Division staff will prepare a report and draft legislation to document the Committee's recommendations and report to the Legislature and the Legislative Finance Committee. The deadline for presentation of Committee recommendations is August 1, 1998.

SUBCOMMITTEE ON DEDICATED REVENUES AND STATUTORY APPROPRIATIONS

Subcommittee Reschedules Meeting...The SB 378 Subcommittee on Dedicated Revenues and Statutory Appropriations rescheduled the dates for its next meeting from June 25 and 26 to July 20 and 21. The meeting will begin at 8:30 in Room 108 of the State Capitol. This meeting will review the revenue provisions of dedicated state special revenue accounts.

Questions regarding the meeting can be directed to Bob Tallerico, Legislative Fiscal Division, at 444-2986.

OVERSIGHT COMMITTEE ON CHILDREN AND FAMILIES

Committee Continues Work...A disturbing snapshot of the world of child abuse and neglect and testimonials from the people who work in that world every day marked the morning session of the June 22 meeting of the Joint Oversight Committee

on Children and Families (JOCCF). During the meeting's long afternoon, JOCCF heard updates on and discussed the Children's Health Insurance Program (CHIP) state plan, the status of the Mental Health Access Plan, and the final activities of the Subcommittee on Welfare and Child Support Enforcement Programs.

The JOCCF also set aside a hour for public comment, during which number of individuals and representatives from low-income advocacy organizations commented on their experiences with welfare and FAIM (Families Achieving Independence In Montana), child support enforcement, and CHIP. At the conclusion of the public comment period, JOCCF asked that the Department of Public Health and Human Services (DPHHS) appear at the Committee's last meeting on August 17 to respond to some of the points that were raised. DPHHS will be provided with a tape of the public comment period and copies of the handouts that were provided.

Child Protective Services...While all of the material presented and discussed on June 22 was informative and integral to JOCCF's work plan, the morning's discussion surrounding child abuse and neglect is the focus of this month's JOCCF contribution to **THE INTERIM**.

To walk the JOCCF through the steps of a child abuse or neglect case, Shirley Tiernan, chief of the Children's Services Bureau, Child and Family Services Division, (DPHHS), assembled a group of DPHHS employees, attorneys, judges, and a detective. Each explained his or her role in ensuring the safety of the child and helping the family through the state intervention process.

The discussion stemmed from some JOCCF members' concern that parents or guardians, sometimes wrongly accused, are treated unfairly, have no recourse, and no protection once the state becomes involved in a child abuse case. The professionals who spoke assured the members that DPHHS policies and indeed state statutes concerning this subject are based on the sanctity of the family. Seldom, if ever, had the field workers or judges ever witnessed unethical behavior on the part of social workers or other state staff involved in a case. A detective from the Great Falls Police Department, a seasoned veteran of child abuse and neglect investigations, added that the detectives, social workers, and intake workers are much too busy handling the hundreds of cases per month that they receive to spend time plotting unwarranted investigations.

When asked about the protections available to parents and whether there may be a need for a "parent advocate" in child abuse cases, the response from a number of the professionals in the room was that protections for parents already exist on a number of different levels. Adding a parent advocate to the mix, they feared, may do little more than further complicate an already muddied situation. Presenters to JOCCF assured members that parents have certain protections against unfair treatment, and there are a number of "checks" on the system to prevent unfounded accusations and the unnecessary removal of a child from a home.

The Roles of Professionals...Social workers are often viewed by parents as adversaries, and while their primary goal is to protect a child they deem to be in danger, social workers are trained and mandated to function on behalf of the entire family and make every effort to restore the family that has been impacted by a neglect

or abuse charge. State social workers also undergo child abuse and neglect training and are closely supervised.

Social work supervisors review the cases and assist the social workers in making the tough decisions. Another layer of review allays fears of a potential scenario involving a "renegade" social worker with an axe to grind victimizing a family innocent of abuse or neglect.

If a case cannot be handled informally by the family and the social workers, it makes its way into the court system. If a family cannot afford an attorney, the court will appoint one to represent the parents. The child protective professionals told JOCCF that the sooner an attorney enters the picture, the better. This attorney helps parents or guardians through the system and educates them on the process. If appointed right away upon the request of the county attorney, as is done in Lewis and Clark County, there is less chance that the family will become frustrated and stifled by a system they may not understand.

The court usually appoints a guardian ad litem to represent the interests of the child when a case reaches District Court. A guardian ad litem must be appointed in an involuntary parent-child legal relationship termination proceeding. The guardian ad litem may be an attorney, but may not be an employee of DPHHS, nor may the guardian be the county attorney or deputy county attorney. Appointing a guardian ad litem serves to protect a child's interests (and ultimately those of the family if an inaccurate accusation has been made or charge filed) by conducting research into the facts of a case and reporting those facts to the court.

Only a judge can make the determination to permanently remove a child from its home, and even in that instance, the judge has a number of statutory criteria to follow (41-3-609, MCA). If a case has reached this point, JOCCF was told, it can be assumed that "heroic efforts" have been made to keep the child at home, if at all feasible, by reaching out to parents and assisting them in providing the child with a safe and healthy place to live. In making its determination, however, the court is required to give primary consideration to the physical, mental, and emotional well-being of the child.

A System of Checks and Balances...DPHHS estimates that 30% to 35% of child abuse referrals actually turn out to be substantiated. Nobody would argue that the discovery and prosecution of heinous cases of child abuse and neglect is, unfortunately, all too common. However, JOCCF was told, the social workers, detectives, attorneys and judges are all aware that false reporting of child abuse and neglect is often used as a revenge tactic - a way for a person to "get back" at someone who had "done them wrong". It is for this reason that the checks and balances exist within the system and it remains a delicate balance -- ensuring that a child is never left in a dangerous or deadly environment while striving to sustain the sanctity of the family and protect those against whom a false claim has been made.

To Hold Final Meeting...The Joint Oversight Committee on Children and Families will hold its final meeting of the 1997-1998 interim on Monday, August 17. The meeting is scheduled to begin at 8:30 in Room 108 of the State Capitol.

GAMBLING STUDY COMMISSION

To Meet in Missoula...The Gambling Study Commission will meet on Monday, July 20 in the Gallagher Building on the campus of the University of Montana in Missoula. The meeting is scheduled to begin at 8:30 a.m.

The agenda for the meeting will be available in early July. For further information, please contact Stephen Maly, Legislative Services Division, at 444-3064 or by e-mail at <smaly@mt.gov>.

THE BACK PAGE

On June 2, Montana voters went to the polls to cast their ballots for their favored candidates in statewide and local races. Voting is a simple task. You sign your name in a book, fill out your ballot, deposit it in the ballot box, and go home and wait for the election returns. But is voting really that simple? Is it possible that there is more to this election process?

This month's "The Back Page" article delves into the complexities of the election process and answers many questions that people may have about this right to vote.

EVERYTHING YOU WANTED TO KNOW ABOUT VOTING BUT WERE AFRAID TO ASK!

by Sheri Heffelfinger, Research Analyst
Legislative Services Division

A ROUTINE DAY?

June 2 was routine. I went to work, took a lunch break, voted, and went back to work. Wait. Voted? Is that routine? Well, it seemed so. All I did was drive to my polling place, sign a register, mark and turn in a ballot, and go about my business. Easy. Yet, the 5-minute act of marking and turning in a ballot belies the complexity of our most democratic process.

IT'S REALLY VERY SIMPLE!

For an election to come off, a lot of things have to happen just right. I once asked an election administrator to instruct me on the election process. The response I got was something like this: "Well, primary elections held before general elections held in even numbered years are held on the first Tuesday after the first Monday in June. But, primary elections held before general elections held in odd-numbered years are held on the Tuesday following the second Monday in September, unless a primary election is not required. However, a political subdivision, except for a municipality, that is required to hold a primary election every year must hold that election on the school election day, which is the first Tuesday in April, unless a mail ballot election is conducted, except that regularly scheduled elections and special elections, unless authorized by the legislature, cannot be conducted by mail ballot...."

I stared in awe at the fact that the election administrator said all that without even taking a breath. Not noticing my blank stare and the look of total confusion on my face, the election administration finally took a breath and continued: "....A candidate may file no sooner than 135 days before the election, but no later than 5 p.m. 75 days

before the election, except that it's no later than 40 days before the election for school elections and write-in candidates can file a declaration of intent up until 5 p.m. 15 days before the election. You see, the ballots have to be certified between 62 and 67 days before the election so that they can get to the printers and back and be available for absentee voters at least 45 days before the election, or, in the case of city elections, which are in odd-numbered years, 20 days before the election."

By now, I was sorry I asked. The election administrator finally picked up on my glazed-over expression and took pity. "Let me back up for a minute. County clerks and recorders, some are elected and some are appointed, act as county election administrators. They run the elections. And, there are partisan elections and nonpartisan elections. A primary election is one way for a party to nominate a candidate for the general election. That's why, in a primary, you are given two ballots (the two major parties being, of course, the Republicans and the Democrats, the other parties like the Reform Party, Libertarian Party, and the Natural Law Party don't usually need to have a primary). The other way to qualify for the general election is to be a write-in candidate and get at least 5% of the total votes cast for the last successful candidate. If a political party doesn't have enough candidates for more than half of the offices on the ballot in an even-year election and no more than one candidate files for party nomination for any of the offices on the ballot, then we don't need to print a ballot or hold a primary for that party."

THINGS I NEVER LEARNED IN CIVICS CLASS

I felt like I flunked my sixth grade civics class and was sentenced to remedial citizenship. But, stubborn pride drove me on. "So," I asked aloud, clearing my throat and trying to sound profound but actually desperate to bring the conversation back to some common frame of reference, "when I showed up at my polling place, signed the poll book and got two ballots, but voted only one ballot and turned it in, that was the culmination of an extended and complex process, right?"

The election administrator smiled knowingly, seeing that I really had no idea just how complex a process it was. "Actually, there are two books at each polling place," he explained, rubbing salt on my wounded ego, "the precinct register, which you signed, and the poll book, which the election judges use to track which ballot you get and ensure that you did not already vote a ballot as an absentee voter. You see, when you get a ballot, an election judge records the number of the ballot you get. And, there should be a back-up book as well, or at least two judges making sure each voter gets the right ballots. For example, if there is another election, like for a water district or fire district, sometimes, depending on how the precinct and district boundaries are drawn, you could be eligible to vote in the fire district election, but not in the water district election. So, you need to get the ballot only for the fire district election."

"I see," I answered, trying to act as if I wasn't terribly embarrassed by my ignorance. After all, I told myself, I had only been voting in elections for, er... well, almost 20

years. I gritted my teeth and asked the obvious question, "And how many types of districts have elections?"

"A lot," answered the election administrator, annoyed at himself for having to cheat by actually looking them up, "there are cemetery, conservancy, drainage, fire, grazing, hospital, irrigation, mosquito, school, and water and sewer districts. Most have annual elections, some hold elections only every 2 years, and the rest don't have specified requirements."

The election administrator recovered from the interruption and carried on with the lesson: "The precinct is the foundation of the pyramid. Each county is divided into precincts of equal, or nearly equal, populations. Each precinct can have two or more polling places, but each eligible voter is assigned to vote at one certain polling place. Voter registration closes 30 days before the primary election. Also, county commissioners must designate the polling places no later than 30 days before the election, but can make changes, if necessary, up to 10 days before the election. Voters must be notified of their polling place no more than 10 days before and election, but not later than 2 days before the election."

WHO'S ON FIRST?

By now, I was getting the hang of the "so-many-days-before-the-election" stuff, which boosted my confidence. I ignored the nagging question I had about state House and Senate districts that cross county lines. I could figure that out later. Instead, I restated the knowledge I had gained, just to let the election administrator know that I was, in fact, listening. "O.K., so you have to have time to get the names of the candidates who are going to be on the ballot, get eligible voters registered, make sure your precinct register and poll books are accurate, get the ballots printed, designate and inform voters about their polling place, and then be sure that each registered voter gets the right ballot for each election."

My comment must have made it sound too simple because it reminded the election administrator there was more to be explained. "Yes, but because the names that appear on the ballot must be rotated so no candidate has an unfair advantage by appearing first all the time, different ballots are printed for the same election, and in primaries, as I mentioned, there are already separate ballots for each party. For example, if there are three precincts in a county and four candidates for a particular office, each precinct will get ballots printed with a different candidate's name listed first. In other words, precinct 1 will have ballots with candidate A's name first, precinct 2 will have ballots with candidate B's name first, and so on."

I did some quick number crunching and realized that three precincts and four candidates didn't add up exactly right for candidate D to have a shot at his or her name being first. Against my better judgement, I ask about that, but was assured that a statistically correct weighting process would be applied so no candidate would be

unreasonably disadvantaged by the order in which the names appeared on the ballot.

IS MY VOTE REALLY SECRET?

Thinking about the ballots reminded me of another question. I tried to sound intelligent, as if I could converse on the same level as the election administrator. "When I give my ballot to the election judge and the judge rips off the stub with the number on it, puts the stub in the stub box and places my ballot in the ballot box, all of that is to ensure that my voted ballot is secret so no one can connect the number on the ballot I received with my marked ballot, right?"

"Right," replied the election administrator, offering no more explanations and giving me a chance to make an escape. But, I didn't take it. Pride, you know. "So, what about the absentee ballots?" I asked. The election administrator smiled, pleased that, despite the gauntlet I had to run to keep up with him, I kept coming back for more. "Absentee ballots now have a secrecy envelope. Remember, they didn't a few years ago and we had a little trouble come up in Butte." I nodded, trying hard to remember and starting to feel like I had been living under a rock. "So, when the absentee ballot is given out at the court house or mailed out to the voter, the stub is removed and attached to the absentee ballot application. When the absentee voter marks the ballot, the ballot goes in an envelope, and the envelope goes into an outer envelope. The voter signs that outside envelope so we can verify he or she is the voter who requested the ballot. When an election judge opens the envelop with the voter's name on it, the ballot is still secret because it is still in its own envelope. Election judges can put the absentee ballots into the ballot boxes during the day, or wait until the polls close. Either way, the absentee ballots are accounted for and are still secret."

MAKE MY DAY!

Trying to absorb all this exhausted my reserves, so I didn't ask about the many other things we hadn't yet touched on like ballot issues and initiatives. I was content with what I had learned, or re-learned. I stood up, shook hands, and said thanks.

As I walked out of the election administrator's office, I felt a renewed appreciation for my right to vote and for the effort it takes to make voting routine. I thought about how, as an American, I don't have to stand in line for a whole day, or more, to cast my vote. I don't have to worry that the election will be fixed or the ballot boxes stuffed, or that soldiers or insurgents will fire at people waiting to vote or assassinate the candidate I want to vote for. I don't have to worry that the losing candidate will turn violent or try to declare an independent country or that the winning candidate will throw the losers and their supporters in jail.

In America, elections allow us to exercise our democratic rights and accomplish the transfer of power peacefully. Getting here hasn't been easy. But, thank God, our

Founding Fathers, defenders of freedom, and the candidates, the election administrators, and the election judges, too. Thanks for making the day I go to the polls to vote meaningful and, yes, routine.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

JULY

July 1, TAC Education Subcommittee

July 3, Independence Day observed, legal holiday

July 9, CSOC Subcommittee on Juvenile Issues, Room 437, 10 a.m.

July 9, Committee on Public Employees' Retirement Systems, video conference,
6:30 p.m. (For a list of video conference locations, please refer to page 5.)

July 10, Committee on Public Employees' Retirement Systems, Room 104, 8 a.m.

July 20, Gambling Study Commission, Gallagher Building, UM, Missoula, 8:30 a.m.

July 20, Postsecondary Education Policy and Budget Committee, Room 104, 9 a.m.

July 20-21, LFC Subcommittee on Dedicated Revenues and Statutory
Appropriations, Room 108, 8:30 a.m.

July 23-24, Revenue Oversight Committee, Room 104

July 24, Transitional Advisory Committee, Sidney

July 27, CSOC Subcommittee on Private Prisons and Programs, Room 104,
10 a.m.

AUGUST

August 6, Interim Property Tax Committee, Little Metra, Columbus

August 7, Interim Property Tax Committee, Lincoln Center Board Room, Billings

August 17, Joint Oversight Committee on Children and Families, Room 108,
8:30 a.m.

August 18, Subcommittee on Veterans' Needs, Room 104, 10 a.m.

August 20-21, Correctional Standards and Oversight Committee, Room 104,
7 a.m.

SEPTEMBER

September 7, Labor Day, legal holiday

September 10-11, Environmental Quality Council, Room 108

September 11, Legislative Council, Room 104

September 14, Interim Property Tax Committee

September 24, Legislative Finance Committee, Room 104, 9 a.m.

September 25, Legislative Finance Committee, Room 104, 8 a.m.

Legislative Services Division
Room 138, State Capitol
P.O. Box 201706
Helena MT 59620-1706

